

TOWN OF UNDERHILL
APPLICATION OF L.TORKLER
SITE PLAN REVIEW FOR A BED AND BREAKFAST
FINAL FINDINGS AND DECISION

In re: Laure Torkler
33 Tupper Road
Underhill, VT 05489

Docket No. DRB-14-02 Torkler

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Laure Torkler's site plan review application for a Bed and Breakfast on the property located at 33 Tupper Road in Underhill, VT.

- A. On April 24, 2014, Laure Torkler filed an application for site plan review approval. A copy of the application materials and additional information are available at the Underhill Town Hall.
- B. On May 1, 2014, a copy of the notice of the site plan review hearing was mailed via Certified Mail to the Applicant, 33 Tupper Road, Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:
1. Thomas & Judith Thomas, 29 Tupper Road, Underhill, VT 05489
 2. James & Jennifer Bendell, 35 Tupper Road, Underhill, VT 05489
 3. Harley & Wanda Brown, PO Box 584, Richmond, VT 05477
 4. Travis & Patricia Maeder, 97 Upper English Settlement Rd., Underhill, VT 05489
- C. Notice of the site plan review hearing on the Torkler- Bed and Breakfast was posted at the following places:
1. The property to be developed, TU033;
 2. The Underhill Town Clerk's Office;
 3. The Underhill Center Post Office;
 4. The Underhill Flats Post Office.
- D. On May 1, 2014, notice of the site plan review hearing was published in the *Burlington Free Press*.
- E. A site visit was held on Monday May 19, 2014 at 6:00 PM at 33 Tupper Rd; those present included Sarah McShane (staff), Laure Torkler (Applicant), and Board Members: Penny Miller, Shanie Bartlett, Will Towle, and Jim Gilmartin.
- F. The site plan review hearing was held on May 19, 2014. The hearing began at 7:30 PM. The Torkler application was the first item on the agenda.

G. Present at the site plan review hearing were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Will Towle
- Penny Miller
- Jim Gilmartin
- Shanie Bartlett (Alternate)

Zoning & Planning Administrator Sarah McShane also attended the hearing.

H. At the outset of the hearing, Chairperson Van Winkle explained the criteria under 24 V.S.A. § 4465 (b) for being considered an “interested party.” Those who spoke at the hearing were:

- Laure Torkler, 33 Tupper Rd, Underhill, VT 05489
(Applicant/Landowner)
- Rita St. Germain, 18 Tupper Rd, Underhill, VT 05489
(Neighbor)

I. During the course of the hearing the following exhibits were submitted to the Development Review Board:

- A. L. Torkler’s Site Plan Review Hearing Request (dated 4-23-2014);
- B. A copy of the Site Plan Review Standards Findings Checklist;
- C. A copy of the tax map for TU033;
- D. A copy of the Natural Resources Map indicating slope on property;
- E. A copy of the hearing notice published in the Burlington Free Press on May 1, 2014;
- F. A copy of the State of Vermont Small Business Fact Sheet for Bed & Breakfast;
- G. A copy of the septic permit for TU033 (permit # WW-4-3345);
- H. A copy of the procedure checklist for the meeting;
- I. A copy of the VT Dept. of Health application to operate a food and lodging establishment;
- J. A copy of the Lab Report from Endyne Inc. (date reported: 4-29-2014);
- K. A copy of the residential testing application for Endyne Inc. (dated 4-28-2014);
- L. VT Dept. of Health Inspection report for lodging establishment (dated 5-6-2014).

These exhibits are available in the TORKLER, TU033, site plan review file at the Underhill Town Hall.

II. FINDINGS

Factual Findings

The Minutes of the meeting written by Sarah McShane are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

- A. The Applicant seeks site plan review approval for a Bed & Breakfast on her property located at 33 Tupper Road in Underhill, VT.
- B. The property is located in the Rural Residential and Soil & Water Conservation zoning districts as defined in Article II, Table 2.3 and Table 2.6 of the 2012 Unified Land Use and Development Regulations.
- C. A Bed and Breakfast is an allowed use in the zoning district pending site plan approval.
- D. Site plan review approval is requested for the project pursuant to review under the 2012 Unified Land Use and Development Regulations.

III. CONCLUSIONS

The Board finds the application is in conformance with the following sections of the Town of Underhill Unified Land Use & Development Regulations:

Article II, Table 2.3 Rural Residential District
Article II, Table 2.6 Soil and Water Conservation District
Article III, Section 3.13 Parking, Loading, and Service Area
Article III, Section 3.16 Signs
Article III, Section 4.6 Commercial Lodging (Bed & Breakfast, Inn)
Article V, Section 5.3 Site Plan Review

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board unanimously grants approval for the Bed & Breakfast as described at the hearing and in the submitted application documents, with the following conditions:

- A. A minimum of five off-street parking spaces are required by town ordinance and must be provided. Parking spaces shall have a minimum width of nine feet and a minimum length of 18 feet.
- B. As a condition of approval, the Applicant shall furnish a site plan to the Zoning Administrator indicating the location and dimensions of the required parking spaces.

- C. The Applicant, as a condition of approval, must maintain compliance with Section 4.6 of the Unified Land Use & Development Regulations and all required state permits governing the operation of a Bed & Breakfast.

- D. One unlit sign advertising the Bed & Breakfast, that does not exceed eight square feet in area, shall be exempt. All additional signs will require a permit.

Dated at Underhill, Vermont this 27th day of May, 2014.

Charles Van Winkle

Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. §4471 and Rule 5 (b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends 6/26/2014.